



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2012-0340]

RIN 1625-AA08

Special Local Regulation; Hebda Cup Rowing Regatta, Trenton Channel; Detroit River, Wyandotte, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a temporary special local regulation on the Trenton Channel of the Detroit River, Wyandotte, Michigan. This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after the Hebda Cup Rowing Regatta. This special local regulation will establish restrictions upon, and control movement of, vessels in a portion of the Trenton Channel. During the enforcement period, no person or vessel may enter the regulated area without permission of the Captain of the Port.

DATES: This rule is effective from 7:30 a.m. until 4:30 p.m. on April 28, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2012-0340 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0340 in the "Search" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail LT Adrian Palomeque, Prevention Department, Sector Detroit, Coast Guard; telephone 313-568-9508, e-mail [Adrian.F.Palomeque@uscg.mil](mailto:Adrian.F.Palomeque@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision

authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because waiting for a notice and comment period to run would be impracticable and contrary to the public interest. The final details of this boat race were not received in sufficient time for the Coast Guard to solicit public comments before the start of the event. Thus, delaying this temporary rule to wait for a notice and comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the public from the hazards associated with this boat race, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date of this rule would be impracticable and contrary to public interest for the same reasons discussed in the preceding paragraph.

## Background and Purpose

On April 28, 2012, the Wyandotte Boat Club is holding a rowing race that will require the immediate area to be clear of all vessel traffic. The rowing race will occur between 7:30 a.m. until 4:30 p.m. on April 28, 2012. The Captain of the Port Detroit has determined that the likely combination of recreation vessels, commercial vessels, and large numbers of spectators in close proximity to the boat race along the water could easily result in serious injuries or fatalities.

## Discussion of Rule

In light of the aforesaid hazards, the Captain of the Port Detroit has determined that a special local regulation is necessary to protect spectators, vessels, and participants. The special local regulation will encompass all waters, starting at a point on land at position 42°10'58"N, 083°9'13"W; following the Trenton Channel north to position 42°11'44"N, 083°8'56"W; and will be enforced on April 28, 2012, from 7:30 a.m. until 4:30 p.m. All geographic coordinates are North American Datum of 1983 (NAD 83).

Entry into, transiting, or anchoring within the regulated area is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene

representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

### Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy

issues.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The Coast Guard's use of this special local regulation will be of relatively short duration, and it is designed to minimize the impact on navigation. Moreover, vessel may, when circumstances allow, obtain permission from the Captain of the Port to transit through the area affected by this special local regulations. Overall, the Coast Guard expects insignificant adverse impact to mariners from the enforcement of this special local regulation.

#### Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of

which might be small entities: the owners or operators of vessels intending to transit or anchor in this portion of the Trenton Channel near Wyandotte, MI between 7:30 a.m. until 4:30 p.m. on April 28, 2012.

This special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will only be in effect and enforced for nine hours on one day. The race event will be temporarily stopped for any deep draft vessels transiting through the shipping lanes. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect, allowing vessel owners and operators to plan accordingly.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The

Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be



received without jeopardizing the safety or security of people, places or vessels.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction. This rule involves a special local regulation issued in conjunction with a regatta or marine parade, therefore (34)(h) of the Instruction applies. An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under ADDRESSES.

## List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.35T09-0340 to read as follows:

§ 100.35T09-0340 Special Local Regulation; Hebda Cup Rowing Regatta, Wyandotte, MI.

(a) Regulated area. A regulated area is established to include all waters of the Trenton Channel in the Detroit River, Wyandotte, Michigan, starting at a point on land at position 42°10'58"N, 083°9'13"W; following the Trenton Channel north to position 42°11'44"N, 083°8'56"W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) Special local regulation. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(c) Enforcement period. This regulation will be enforced from 7:30 a.m. until 4:30 p.m. on April 28, 2012.

(d) Vessel operators desiring to enter or operate within the regulated area shall contact the Coast Guard Patrol Commander to obtain permission to do so. Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the Coast Guard Patrol Commander.

DATED: April 16, 2012

J. E. Ogden  
Captain, U. S. Coast Guard  
Captain of the Port Detroit

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